

## REMARKS

Applicants acknowledge the notation of Applicants prior election of species. In this regard, Applicants would like to point out that claims 7, 14, 22 and 29 are all dependent claims which are directed to the same species as set forth in claim 1 except that an additional feature (rib) is provided on the rupture member as set forth in claims 7 and 22 or the placement of the rupture member at a particular location where the seal and cap member are positioned at a particular distance apart. Accordingly, Applicants respectfully submit that these claims fall within the single species of claim 1 and 16. Claims 14 and 29 have also been amended in an appropriate form of a single sentence.

With regard to the objection to the specification in paragraph 2, Applicants have amended the specification to provide the appropriate reference numerals for closure assembly 12 and bottle 10.

With regard to the objection to the drawings in paragraph 3, claim 16 has been amended to properly refer to the skirt for securing the cap member to the neck portion. Accordingly, the feature set forth in claim 16 is shown by the drawings.

With regard to the objection to claims 16-21, 23-28 and 30 under 35 USC § 112, first paragraph, the secure member has been amended to refer to an annular skirt which is clearly discussed in the specification and illustrated by the drawings. Accordingly, the rejection in paragraph-5 is no longer applicable. 12

With regard to the objection set forth in paragraph 7, independent claim 1 has been amended to specifically be recited to a cap member. Thus, the amended claim 1 is not directed to the combination of both the bottle and cap member. Claim 16 has been amended to be clearly directed to the combination of a bottle and bottle closure assembly.

In view of the foregoing, Applicants respectfully submit that the objections and/or rejections under 35 USC § 112 are no longer applicable.

The Examiner, in paragraph 10, rejected claims 1 and 2 under 35 USC § 102(b) as being anticipated by Su (U.S. Patent 4,770,305) for the reasons set forth. In this regard, the amended independent claims and newly presented claim are directed to a very specific bottle closure and/or bottle closure and bottle assembly wherein a cap member is provided for assisting in the rupture of a seal

provided on the bottle. In particular, the claims include the limitation of providing a plurality of rupture members that engages seal upon engagement with an external probe and have a shape that will substantially clear said seal at said outlet for allowing quick and easy egress of solution from the bottle while the probe is present in the bottle and that the members have a connecting hinge member that allows the rupture members to pivot approximately 90° with respect to a plane parallel to the outlet. It is respectfully submitted that the Su reference does not teach or suggest the invention as currently set forth. In particular, the Su reference discloses a bottle cap that has projection that when the cap is depressed, will engage the seal. However, the cap merely discloses a cap having a convex top 21 which is depressed to lower the projections to break the foil 3. However, it does not teach or suggest the providing a plurality of rupture members that engages the seal upon engagement with an external probe and allow dispensing while the external probe is in the bottle. The Su reference includes a projection 29 that is used to push open the cap (remove the cap) for dispensing of the fluid (see column 2, lines 35-38). Further, Su does not teach or suggest that the rupture members have hinge members allowing rupture members to pivot approximately 90° with respect a plane parallel to the outlet. This allows the external probe to be placed within the bottle and allow easy egress of the fluid while the probe is within the bottle. Clearly, this is not taught or suggested by Su. Accordingly, it is respectfully submitted that the Su reference does not teach or suggest the invention as currently set forth in the independent claims.


The Examiner also rejected claims 3-6 and 8-13 under 35 USC § 103(a) as being unpatentable over Su in view of Osip et al. (U.S. 4,993,569) for the reasons set forth in paragraph 12. Applicants respectfully submit that the Su and Osip references do not teach the invention as currently presented. The Su reference has been shown not to teach or suggest the invention as taught and claimed by Applicants. The Osip reference does not teach or suggest anything that would render the independent claims obvious. Since claims 3-6 and 8-13 are dependent claims which depend at least ultimately upon the independent claims currently set forth, it is respectfully submitted that the references alone or in combination do not teach the invention.

With regard to claim 7 and 22, there is set forth that the rupture member includes a rib for engaging the probe for assisting moving a rupture

member against the inside surface of the neck portion. This becomes of particular importance when dispensing of the fluid with the external probe placed therein. There is nothing that teaches or suggests the providing of the external rib for the purpose set forth in these claims. Accordingly, it is respectfully submitted that these claims provide additional basis for distinguishing over the cited art.

In view of the foregoing, Applicants respectfully submit that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

  
Attorney for Applicant(s)  
Registration No. 27,370

Frank Pincelli/phw  
Rochester, NY 14650  
Telephone: 585-588-2728  
Facsimile: 585-477-4646